IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01/08/2003

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

CRIMINAL ORIGINAL PETITION NO.24782 of 2003
and
CRL.M.P.NO.7031 OF 2003

1. A.Mohandoss
2. A.Pandiammal
3. S.Anthony
4. A.Mayakannan
5. A.Dhanalakshmi .. Petitioners

-Vs-

State rep. by
1) Inspector of Police,
All Women Police Station,
Thallakulam, Madurai.

2. Inspector of Police,
All Women Police Station (Rural)
Thirupparamkundram,
Madurai. .. Respondents

Criminal Original Petition under Section 482 of the Cr.P.C. as stated therein.

For Petitioners: : Mr.R.Karuppan

For Respondent: : Mr.A.N.Thambidurai,
Govt.Advocate (Crl.side)

:O R D E R

The above criminal original petition has been filed under Section 48 2 of the Code of Criminal Procedure praying to call for the records in C.C.No.16 of 2002 on the file of the Court of VII Judicial Magistrate at Madurai and quash the same.
2. On a perusal of the materials placed on record and upon hearing the learned counsel for both, it comes to be known that the first petitioner is an Advocate and other petitioners are his father, mother, brother and sister against whom, the wife of the first petitioner has lodged a complaint

with the first respondent in Cr.No.35 of 2000 for the offences punishable under Sections 498-A and 406 IPC and Section 4 of the Dowry Prohibition Act and the said co mplaint having been transferred to the second respondent, the second respondent Police in turn having registered the same in their Cr.No.27 of 2000, have investigated the same and filed the charge-sheet before the jurisdictional Court.

3. It is this charge-sheet which is sought to be quashed by all the petitioners on grounds such as that when the case was registered by the respondents, they have filed Crl.O.P.No.24934 of 2000 and when the same was taken up for hearing, a compromise between the parties was reported even by the prosecution and the same was withdrawn in the light of the fact that charge-sheet was filed before the Court; that he filed F.C.O.P.927 of 2000 on the file of the I Additional Family Court, Chennai to declare the marriage between himself and his wife as null and void and when the same was taken up for hearing on 9.7.2003 , since his wife evinced interest in living with him, he did not press the same and the same was dismissed as not pressed; that the charge framed in suppression of the fact that a compromise had entered into between the petitioner and his wife in the presence of the respondents in writing duly witnessed and pursuant to the same, the complainant had herself sought for referring of the complaint since the entire charge vitiated and hence renders it liable to be quashed; that in the light of the latest development that the petitioner and the complainant have decided to reunite and lead a happy and harmoneous life hereafter, the charge-sheet has further become infructuous and liable to be quashed. The learned counsel for the petitioner would rely on a judgment of the Honourable Apex Court in B.S.JOSHI AND OTHERS vs. STATE OF HARYANA AND ANOTHER reported in 2003(3)CTC 54 wherein it has been held:

"Court should not take hyper-technical view and discourage genuine settlement of matrimonial disputes which would be counter-productive and would act against the interest of women and against the object for which provisions of Section 498-A has been added."

4. On the contrary, the learned Government Advocate, appearing on behalf of the respondent would suggest that proper direction may be issued to the trial Court to consider the fact situation of the case in hand and to pass orders examining the complainant and assessing the present condition.

5. In consideration of the facts pleaded and projected before this court by the learned counsel for the petitioner and the Government Advocate contra and having regard to the materials placed on record, what comes to be known is that it is a matrimonial dispute and the parties have gone in compromise and they have resolved to live together as it comes to be reported on the part of the petitioners and on the part of the respondents also regarding which there is no dispute but it would be insisted that it is a charge sh eeted matter and therefore, they would pray for the complainant to be examined to get the facts ascertained.

6. Since it is a matrimonial dispute and since the dispute between the parties have been compromised, and since on the part of the learned

Government Advocate appearing on behalf of the respondents, there is no denying of the facts that the parties have gone in compromise with each other, in the interest of both the parties following the judgment of the Hon'ble Apex Court cited on the part of the petitioners reported in B.S.JOSHI AND OTHERS vs. STATE OF HARYANA AND ANOTHER (200 3 (3) CTC 54), and with the general honest thought and common good of both the parties, this Court is of the view that it is only desirable to quash the proceedings in C.C.No.16 of 2002 on the file of the Court of VII Judicial Magistrate, Madurai and the same is decided accordingly.

In result,

(i) the above Criminal Original Petition is allowed quashing the proceeding pending in C.C.No.16 of 2002 on the file of the Court of VII Judicial Magistrate, Madurai;

(ii) consequently, Crl.M.P.No.7031 of 2003 is closed.

Index:Yes
Internet:Yes

gr.

To
1. The Inspector of Police,All Women Police Station, Cuddalore O.T.
2. The Judicial Magistrate No.II, Cuddalore.
3. The Public Prosecutor, High Court, Madras.